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DATE 3/25/11  
SB 423

Amendments to Senate Bill No. 423  
1st Reading Copy

Requested by Senator Jeff Essmann

For the Senate Judiciary Committee

Prepared by Sue O'Connell  
March 25, 2011 (7:38am)

1. Title, page 1, line 12.

**Following:** "45-10-107,"

**Insert:** "50-46-201, 50-45-202,"

**Following:** "69-1-401, MCA;"

**Insert:** "REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA;"

2. Page 45, line 10.

**Insert:** "Section 53. Section 50-46-201, MCA, is amended to read:

**"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.** (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and

industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

{ Internal References to 50-46-201: None. }

**Insert: "Section 54.** Section 50-46-202, MCA, is amended to read:

**"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.** (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~ (2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~ (3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

{ Internal References to 50-46-202: None. }

**Renumber:** subsequent sections

3. Page 47, line 16.

**Insert:** "NEW SECTION. **Section 59.** {standard} **Repealer.** The following section of the Montana Code Annotated is repealed: The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

50-46-205. Limitations of Medical Marijuana Act.

50-46-206. Affirmative defense.

{Internal References to 50-46-206: None.}

50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

50-46-210. Rulemaking -- fees.

{Internal References to 50-46-101: None.

Internal References to 50-46-102: None.

Internal References to 50-46-103: 50-46-201 50-46-202

Internal References to 50-46-201: None.

Internal References to 50-46-202: None.

Internal References to 50-46-205: 50-46-206

Internal References to 50-46-207: None.

Internal References to 50-46-210: None.}"

**Renumber:** subsequent sections

4. Page 48, line 28 and 29.

**Strike:** section 59 in its entirety

5. Page 49, line 8.

**Following:** "4]"

**Insert:** " and, except as provided in subsection (4), [section 59]"

**Strike:** "is"

**Insert:** "are"

6. Page 49, line 9.

**Strike:** "[Section 61] is"

**Insert:** "The repeal of 50-46-103 provided for in [section 59] and this section are"

- END -